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MAILED

JUN 30 2011

OFFICE OF PETITIONS

In re Application of
Shin-Jen Shiao
Application No. 10/554,315
Filed: October 24, 2005
Attorney Docket No.: None

ON PETITION

This is a decision in response to the renewed petition, filed June 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned on September 29, 2007 for a failure to reply in a timely manner to a non-final Office action mailed August 28, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on June 23, 2008. On March 21, 2011, and supplemented on March 30, 2011, a petition to revive under the provisions of 37 CFR 1.137(b) was filed. The petition was dismissed in a decision mailed April 28, 2011. In response, on June 14, 2011, the present petition was filed, along with a Request for Continued Examination (RCE) under 37 CFR 1.114.

Petitioner should note that the filing of a RCE is not permissible unless prosecution in the application is closed. Accordingly, the improper RCE will not be accepted and the RCE filing fee paid therefor is subject to refund.

Any request for refund of the RCE filing fee must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

Nonetheless, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of the amendment; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay¹.

The application is being referred to Technology Center AU 1614 for consideration of the response filed June 14, 2011.

¹ This application has been abandoned for an extended period of time; therefore, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions